1979

International Resources, A Utah Corporation v. C. Robert Dunfield and Lynn S. Dunfield : Brief of Defendant-Respondent

Utah Supreme Court

IN THE

SUPREME COURT

OF THE

STATE OF UTAH

INTERNATIONAL RESOURCES,
a Utah corporation,

Plaintiff-Appellant,

vs.

C. ROBERT DUNFIELD and
LYNN S. DUNFIELD,

Defendants-Respondents.

Case No.
16127

BRIEF OF DEFENDANT-RESPONDENT

APPEAL FROM THE JUDGMENT OF THE THIRD
JUDICIAL DISTRICT COURT FOR SALT LAKE
COUNTY, STATE OF UTAH
HONORABLE DAVID B. DEE, JUDGE

STEVEN C. VANDERLINDEN
Courthouse
Farmington, Utah 34025
Attorney for Defendant-
Respondents

LORIN N. PACE
431 South Third East
Suite B-1
Salt Lake City, Utah
Attorney for Plaintiff-Appellant

IN THE

SUPREME COURT

OF THE

STATE OF UTAH

INTERNATIONAL RESOURCES,
a Utah corporation,

Plaintiff-Appellant,

vs.

C. ROBERT DUNFIELD and
LYNN S. DUNFIELD,

Defendants-Respondents.

Case No.

16127

BRIEF OF DEFENDANT-RESPONDENT

APPEAL FROM THE JUDGMENT OF THE THIRD
JUDICIAL DISTRICT COURT FOR SALT LAKE
COUNTY, STATE OF UTAH
HONORABLE DAVID B. DEE, JUDGE

STEVEN C. VANDERLINDEN
Courthouse
Farmington, Utah 84025
Attorney for Defendant-
Respondents

LORIN N. PACE
431 South Third East
Suite B-1
Salt Lake City, Utah
Attorney for Plaintiff-Appellant

TABLE OF CONTENTS

CASES CITED

IN THE
SUPREME COURT
OF THE
STATE OF UTAH

INTERNATIONAL RESOURCES,
a Utah corporation,

Plaintiff-Appellant,

vs.

C. ROBERT DUNFIELD and
LYNN S. DUNFIELD,

Defendants-Respondents.

BRIEF OF DEFENDANT-RESPONDENT

NATURE OF THE CASE

This is an action by Plaintiff-Appellant, International Resources, for an alleged breach of a lease agreement by Defendant-Respondent, C. Robert Dunfield and Lynn S. Dunfield, counterclaimed alleging that there was indeed a breach of contract on a lease agreement but that said breach was Plaintiff-Appellant's fault. Both parties are claiming monies due for damage under the lease agreement.

DISPOSITION IN THE LOWER COURT

The Honorable David B. Dee, Judge of the Third Judicial District Court of Salt Lake County, granted Defendant-Respondent, C. Robert Dunfield and Lynn S. Dunfield's Motion to Dismiss.

RELIEF SOUGHT ON APPEAL

Defendant-Respondent respectfully requests this Court to uphold and affirm the decision of Judge David B. Dee granting Defendant-Respondent's Motion to Dismiss.

STATEMENT OF THE FACTS

On June 12th, 1975, Snellen M. Johnson filed a complaint against C. Robert Dunfield and Lynn S. Dunfield. The complaint was over a lease entered into on November 4, 1973, between International Resources and C. Robert Dunfield and Lynn S. Dunfield, over property located at 4751 Holladay Boulevard Salt Lake City, Utah. (1R-p.2)* The Plaintiffs alleged that Robert Dunfield and Lynn S. Dunfield at no time prepared the

---

*Reference to Case number 228490 is designated by (1R-p) and reference to Case number 244950 is designated by (2R-p)

building for occupancy as agreed and thus did breach and violate the lease agreement by which International Resources is entitled to the return of its payment of $6,647.10. (1R-p.3) A trial was hel after Plaintiff rested, Judge Croft granted Defendant-Respondent's Motion to Dismiss. (1R-p.22)

On September 16, 1977, International Resources filed a complaint against C. Robert Dunfield and Lynn S. Dunfield. The complaint was almost word for word the same as the first complaint filed by Snellen M. Johnson. It was over the same lease agreement, concerning the same parties, and the same issues. (1R-p.2-3, 2R-p2-3 In the second complaint, it was alleged the same as the first that "C. Robert Dunfield and Lynn S. Dunfield at no time prepared the building for occupancy as agreed and thus did breach and violate the lease agreement by which International Resources is entitled to the return of its payment of $6,647.10. (2R-p.3) Defendant-Respondent moved to dismiss the complaint which the Honorable David B. Dee granted.

ARGUMENT

POINT I.

A JUDGMENT OF A COURT OF COMPETENT JURISDICTION RENDERING A DECISION UPON A PARTICULAR ISSUE IS CONCLUSIVE AND BARS SUBSEQUENT LITIGATION ON THE SAME ISSUE.

There is a well settled doctrine in the legal community called the doctrine of "res judicada". Simply stated, the doctrine of res judicada means that a judgment of a court of competent jurisdiction directly rendered upon a particular issue or issues is conclusive as to the parties and issue so decided in the same or any other controversy. Once Judge Bryant H. Croft, a Judge of competent jurisdiction, ruled in favor of Defendant-Respondent dismissing an action by Plaintiff Appellant over a lease agreement on real property, subsequent actions on the same lease concerning the same issues would be barred because of the doctrine of "res judicada".

The defendant respectfully points out to the court that all issues alleged in the present legal suit by International Resources, have been adjudicated by the Third Judicial District Court. A careful scrutiny of the first complaint filed by Mr. Pace, Snellen M. Johnson vs. C. Robert Dunfield and Lynn S. Dunfield, civil No. 228490 and then the second complaint International Resources vs. C. Robert Dunfield and Lynn S. Dunfield, civil No. 244950 clearly points out that the only issue in both actions is a payment of $6,647.10 received by the defendants for a lease on property at 4751 Holladay Boulevard, Salt Lake City, Utah. It is interesting to note that in both

complaints the amount of money is exactly the same, the address is exactly the same, the date of the lease agreement is exactly the same, and the parties entering into a lease agreement are exactly the same. Coupling all these items that are exactly the same in both complaints, there should be no question in anyone's mind that the issues of the suit or the cause of action, or whatever legal term you would want to put it under, leads you to exactly the same conclusion; the actions are identical. There is only one minor difference, International Resources filed suit the first and Snellen N. Johnson filed suit second.

In 50 Corpus Juris Sucondum, Sec. 712:

> "A judgment rendered by a court having jurisdiction of the parties and subject matter is conclusive and indisputable evidence as to all rights, questions, or facts put in issue in the suit and actually adjudicated therein, when the same come again into controversy between the same parties or their privies, even though, according to the decisions of the question, the subsequent proceedings are on a different cause of action since the law abhors a multiplicity of suits. Another statement of the rule is that any right, fact, or matter is issue, or directly adjudicated on, or necessarily involved in, the determination of an action before a competent court in which a judgment or decree is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and privies whether or not the claim or demand, purpose, or subject matter of the two suits is the same." (emphasis added)

There are numerous cases which also indicate the same doctrine. In Runyan v. City of Henryetta, Oklahoma, 321 P2d 689 (1967) it states:

> "Doctrine of res judicada is that a final judgment of a court of competent jurisdiction upon a matter properly before it concludes parties to the litigation and their privies, and constitutes a bar to a new action or suit upon the same cause of action, either before the same or any tribunal."

The Arizona Supreme Court has also indicated that the doctrine of res judicada applies to parties and their privies. In Hoff v. City of Mesa, 86 Arizona 259, 344 P2d 1013 (1965) it states:

> "Doctrine of res judicada is that existing final judgment rendered upon the merits, without fraud or pollution, by court of competent jurisdiction, is conclusive as to every point decided therein and also as to every point raised by record which could have been decided, with respect to parties and privies, in all other actions in same or in any other judicial tribunal of concurrent jurisdiction."

Utah, in a decision written by the Honorable Lester A. Wade, and concurred in by the other four Supreme Court Justices, upheld and supported the doctrine of res judicada in the Knight v. Flat Top Mining Co., case 6 UT2d 51, 305 P2d 503 (1957). In part Judge Wade stated:

> "What interest the Flat Top Mining Co. has in these claims was derived from the Plaintiffs in that action. As stated in 30 Am. Jur. 90, Sec 178, on judgments:

> It is a fundamental principle of jurisprudence that material facts or questions which were in issue in a former action, and were there admitted or judicially determined, are conclusively settled by a judgment rendered therein, and that such facts or questions become res judicada and may not again be litigated in a subsequent action between the same parties or their privies, regardless of the form the issue may take in the subsequent action, ..." pg.55

It is clear from the facts in this case that the second suit by International Resources is a direct copy of the first suit. The cause of action is the same, the items prayed for are the same, the defendants are the same, and the only distinction is the fact that the Plaintiff is not the same. The legal merit to a cause of action on that certain lease dated November 29, 1973, at 4751 Holladay Boulevard, Salt Lake City, Utah, has been fully litigated and a judgment rendered. Thus, based on the doctrine of res judicada, defendant respectfully submits that the Supreme Court should support Judge Dee in dismissing a second legal action.

POINT II.

SNELLEN M. JOHNSON AND INTERNATIONAL RESOURCES INC. WERE, IN FACT, IN PRIVY.

Appellant makes a specific point to observe that res judicada does not apply to strangers (appellant's brief pg. 5)

and that there is no evidence in the record supporting any ty of privity between the Plaintiff, International Resources, In and Snellen M. Johnson. (appellant's brief pg. 7) Respondent would respectfully dispute these claims by Appellant and subm that Snellen M. Johnson and International Resources Inc. were, in fact, closely related in interests and knowledge of each other, especially concerning the legal actions discussed here and, further, by legal definition were, in fact, in privity.

The original lease of the property at 4751 Holladay Boulevard, Salt Lake City, Utah, dated November 29, 1973, was between International Resources Inc. and the Dunfields. Howe it is interesting to note who signed the agreement on behalf of International Resources, Inc.; Snellen M. Johnson. Note also, according to the lease, what his official capacity in th corporation was at that time; President. Also of interest is the Guarantee, attached to the lease, which guarantees paymen the lease by American Ranch and Recreation Company, Inc. Aga Snellen M. Johnson's signature appears as President of Americ Ranch and Recreation. Respondent respectfully submits it is beyond imagination that International Resources, with Snellen M. Johnson as president, and Snellen M. Johnson, were strange and unaware of the legal proceedings taking place on the lease in question.

Second, respondent submits Snellen M. Johnson was privy to International Resources, Inc. according to case law defining privy. In the first legal action, it is alleged that International Resources Inc. has original rights to the lawsuit, but then assigned those rights to Snellen M. Johnson. In the second lawsuit, it is alleged that Snellen M. Johnson assigned his rights back to International Resources. Case law makes it clear that a person who obtains rights by purchase or succession is in privy with the party he obtained the rights from.

In Paradise Palms Community Association v. Paradise Homes, 89 Nev.27, 505 P2d 596, (1973) it states:

> "A privy within general rule that plea of res judicada is available only when there is privity is one who, after rendition of judgment, has acquired an interest in the subject matter affected by judgment through one of parties, as by inheritance, succession, or purchase." See also Bailey v Beekman, Ind. App. 362 NE2d 1171 (1977). (emphasis added)

The interest or rights of this law suit was first assigned to Snellen M. Johnson, who lost the case in District Court. Subsequent thereto, those rights were assigned back to International Resources, Inc., - clearly someone who acquired the rights by succession. Based on case law, as quoted above,

Snellen M. Johnson and International Resources, Inc. are in privy.

POINT III.

COLLATERAL ESTOPPEL IS APPLICABLE IN THE PRESENT CASE AND BARS RELITIGATION OF AN ISSUE PREVIOUSLY TRIED.

Even if the court did not feel the doctrine of res judicada per se should prohibit the continuation of this suit, there is another doctrine closely related to res judicada, sometime confused and identified with res judicada. It is called collateral estoppel. Res judicada bars relitigation of the same cause of action between the same parties or their privies where there is a prior judgment, whereas collateral estoppel bars relitigation of a particular issue for a determinative fact. Thus, the only necessary ingredient to prohibit a second suit under the doctrine of collateral estoppel is that the same cause of action is being tried on the second suit. The reasons for the doctrine are obvious, that is, to equitably protect a person from being tried twice for the same cause of action and also to protect the courts from subsequent litigation on a single issue.

In the present case, it is clear from the pleadings in both matters that the complaints are on the same cause of

action. In Richard v. Hodsen, 26 Utah 2nd 113, 485 P2d 1044 (1971) the Utah Supreme Court used the doctrine of collateral estoppel. In that particular case, the issues concerning an earnest money receipt and offer to purchase agreement had been tried, but subsequent thereto another party filed action against the same defendants alleging that there was money due under the earnest money agreement and offer to purchase. The matter was tried and eventually taken to the Supreme Court of Utah. The Supreme Court looked at the issues and stated as follows:

> "A form of res judicada applies to situations like this wherein issues which are actually decided against a party in a prior action, may be relied upon by an opponent in a latter case as having been judically established. This doctrine, known as collateral estoppel, differs from res judicada not only in the fact that all parties need not be the same in the two actions, but also in the fact that the estoppel applies only to issues actually litigated and not to those which could have been determined. The trend of recent cases is to approve this doctrine."

The Supreme Court of Utah makes it abundantly clear that once an issue is litigated by a competent court, the issue does not need, nor can it be, retried. On the 25th day of August, 1976, before the Honorable Bryant H. Croft, the issues concerning the lease agreement between International resources and C. Robert Dunfield and Lynn S. Dunfield, which was entered into on the 4th day of November, 1973, were heard. It is apparent from

the order of dismissal that evidence was presented on behalf of the plaintiff, that oral arguments were heard by both parties, and that then the complaint was dismissed by the Judge with prejudice from the defendants. International Resources and their claim against C. Robert Dunfield and Lynn S. Dunfield have had their day in court. The Court has spoken and the matter is settled. It would be nothing but unjust and unfair to force C. Robert Dunfield and Lynn S. Dunfield to court again to try exactly the same issues and same matters that were heard by this Court on a prior occasion. Based on the doctrine of collateral estoppel, Respondent's attorney respectfully requests that the case be dismissed.

CONCLUSION

The Judgment of the lower court was in accordance with well recognized principles of law and should be upheld.

Respectfully submitted

Steven C. Vanderlinden
Attorney for Defendants-Respondents
Courthouse
Farmington, Utah 84025

I certify that I mailed a copy of the foregoing brief to Lorin N. Pace, Attorney for Plaintiff, 431 South Third East Salt Lake City, Utah, 84111, postage prepaid this ____ day of March, 1979.

_____